

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

PEGGY C. CASH AND LENARD D. CASH,	§	
	§	
Plaintiffs,	§	
v.	§	Case No. 5:16-cv-279
	§	
AXA EQUITABLE LIFE INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	

NOTICE OF REMOVAL

Defendant AXA Equitable Life Insurance Company (“AXA”) files this notice of removal and state:

1. **The Lawsuit.** Plaintiffs Peggy C. Cash and Lenard Cash (“Plaintiffs”) filed their Plaintiffs’ Original Petition and Request for Disclosure on February 16, 2016, in the 225th District Court, Bexar County, Texas, being numbered 2016CI02547 on the docket of said court seeking declaratory judgment.

2. **Diversity Jurisdiction.** Complete diversity of citizenship exists between Plaintiffs and AXA, as they are citizens of different states. Plaintiffs were citizens of Texas at the time this action was filed and remain citizens of Texas as of the date of this removal. AXA is a New York corporation with its principal office and place of business in New York, both at the time this action was filed and at the time of removal. Moreover, the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. *See* Petition ¶ 5 (“Plaintiffs seek monetary relief over \$200,000 but not over \$1,000,000”). The Court thus has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, and this action may be removed by

AXA pursuant to 28 U.S.C. § 1441. Venue is proper in this Court under 28 U.S.C. § 1391, as this action was pending in a state court within this district and division.

3. **Federal Question Jurisdiction.** The Court also has federal question jurisdiction over this action. Plaintiffs seek to reinstate a life insurance policy that is part of an ERISA plan. Therefore, ERISA completely preempts Plaintiffs' claims against AXA as a matter of law. Accordingly, the Court also has original jurisdiction over this action pursuant to 29 U.S.C. § 1132(e) and 28 U.S.C. § 1331, and this action may be removed by AXA pursuant to 28 U.S.C. § 1441. Venue is proper in this Court under 28 U.S.C. § 1391, as this action was pending in a state court within this district and division.

4. **State Court Documents Attached.** AXA was served on February 24, 2016. As such, this removal is timely under 28 U.S.C. § 1446(b). Attached hereto as Exhibit A is an Index of State Court Matters, which contains true and correct copies of all process, pleadings, or orders received or filed in this action as of the filing of this removal. Also attached hereto as Exhibit B is a list of all counsel of record, including each attorney's bar number, addresses, telephone numbers, and parties represented.

5. **Relief Requested.** AXA respectfully requests that the United States District Court for the Western District of Texas, San Antonio Division, accept this notice of removal and that it assume jurisdiction of this cause and issue all such further orders and processes as may be necessary to bring before it all parties necessary for the final trial hereof.

Respectfully submitted,

By: /s/ Bill E. Davidoff

Bill E. Davidoff

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Attorney-in-Charge

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ATTORNEYS FOR DEFENDANT AXA
EQUITABLE LIFE INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2016, the foregoing instrument was electronically filed the foregoing with the Clerk of Court using the CM/ECF system and sent via certified mail, return receipt to Todd A. Prins, Prins Law Firm, 4940 Broadway, Suite 108, San Antonio, TX 78209.

/s/ Bill E. Davidoff

Bill E. Davidoff